

1 Bingham McCutchen LLP  
2 ROBERT A. LEWIS (SBN 83630)  
3 GEOFFREY T. HOLTZ (SBN 191370)  
4 ELIZABETH KENNEDY (SBN 246039)  
5 Three Embarcadero Center  
6 San Francisco, CA 94111-4067  
Telephone: 415.393.2000  
Facsimile: 415.393.2286  
5  
6 Attorneys for Defendant  
K&K INSURANCE GROUP, INC., d/b/a SPECIALTY  
BENEFITS ADMINISTRATOR, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

12 SEAN MICHAEL CARTER,

13 Plaintiff,

V.

14 K&K INSURANCE GROUP, INC., d/b/a  
15 SPECIALTY BENEFITS ADMINISTRATOR,  
16 INC.; NATIONWIDE LIFE INSURANCE  
17 COMPANY; NATIONWIDE MUTUAL  
INSURANCE COMPANY; AON  
18 CORPORATION and DOES 1 to 100.

18 Defendant.

No. 3:07-CV-05588-CRB

DEFENDANT K&K INSURANCE  
GROUP, INC.'S NOTICE OF MOTION,  
MOTION TO DISMISS OR, IN THE  
ALTERNATIVE MOTION FOR MORE  
DEFINITE STATEMENT

Filing Date: June 26, 2007  
Hearing Date: January 18, 2008  
Time: 10 a.m.  
Dept.: Courtroom 8  
(The Hon. Charles R. Breyer)

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on Friday, January 18, 2008, at 10:00 a.m. or as

soon thereafter as the matter may be heard, in the Courtroom of the Honorable Charles R.

<sup>22</sup> Brever, located at Courtroom 8 of the United States District Court, Northern District of

California, 450 McAllister Street, San Francisco, CA 94102, defendant K&K Insurance Group

Inc. (K&K) will, and hereby does, move this Court for an order dismissing plaintiff Sean

<sup>10</sup> Michael Carter's complaint against K & K for failing to state a claim on which relief may be

granted under Fed. Rule Crim. Proc. 12(b)(2). In the alternative, K&K also will, and hereby do,

<sup>11</sup> See, e.g., *State v. Gandy*, 100 N.C. 1, 10 (1887) (holding that a statute which prohibited the sale of lottery tickets in the state was unconstitutional).

Case No. C-07-055

1 complaint pursuant to Fed. Rule Civ. Proc. 12(e).

2 The motions are based on this Notice of Motion and Motion, Memorandum of  
3 Points and Authorities, Proposed Order, and Request for Judicial Notice filed and served on  
4 November 30, 2007, all pleadings and papers on file herein, any other oral or documentary  
5 evidence that may be provided at the hearing on this motion, and such other matters as to which  
6 this Court may take judicial notice or may otherwise take notice at the hearing on these motions.

7

8

9 DATED: November 30, 2007

10 Bingham McCutchen LLP

11 By: \_\_\_\_\_ /s/

12 Elizabeth Kennedy  
13 Attorneys for Defendants  
14 K&K INSURANCE GROUP, INC.,  
15 d/b/a SPECIALTY BENEFITS  
16 ADMINISTRATOR, INC.

17

18

19

20

21

22

23

24

25

26

27

28